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Alberta's Construction Labour Relations During the Recent Downturn

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Résumé de l'article

Cet article décrit et analyse, en ce qui a trait aux relations professionnelles, la transformation rapide de l'industrie de la construction en Alberta dont 70 à 80 pour cent des chantiers étaient syndiqués et régis par des conventions collectives pendant la période 1975-1982, alors qu'il n'y en avait plus que 5 à 10 pour cent au début de 1984. Plusieurs facteurs importants ont concouru à ce phénomène dont la rapidité est apparemment sans parallèle en Amérique du Nord. Une des causes déterminante est attribuable à la nature générale de l'industrie du bâtiment. Il est possible qu'une fluctuation économique marquée et des vents contraires soient parmi les facteurs qui ont influencé les décisions de se lancer dans des entreprises planifiées d'avance. L'industrie du pétrole et du gaz naturel commande une bonne part de l'activité dans l'industrie de la construction tout comme l'activité économique en régions. Deux « mégaprojets » furent ajournés en 1982 à cause du déclin, à l'époque du prix du pétrole, des taux d'intérêt élevés et de la politique pétrolière du gouvernement fédéral. L'annulation indéfinie de ceux-ci ainsi que d'autres entreprises déjà planifiées eurent pour conséquence une forte baisse d'activité dans l'industrie du bâtiment dont le volume s'établissait à onze milliards en 1982.

Héritage de l'ambiance optimiste de la période 1975-1982, en 1982, des ententes aux tables de négociation qui accordaient pour deux ans des hausses de quatre à cinq dollars aux travailleurs de l'industrie de la construction furent conclues tout juste avant l'éclatement du ballon de l'industrie plus tard durant la même année. Les entrepreneurs dont les chantiers étaient syndiqués et les syndicats eux-mêmes s'étaient ainsi indiscutablement placés en dehors du marché. Peut-être cet état de choses est-il attribuable à la structure de négociation qui tend à perpétuer les rivalités de métier des deux cotes de la table des négociations. En tout cas, les tentatives visant à convaincre les syndicats de faire des concessions, alors que les conventions collectives étaient en vigueur, s'avérèrent-elles infructueuses à l'exception de l'Association des travailleurs du métal en feuilles qui se trouvait alors en tutelle. Il n'y eut pas de concessions pour nombre de raisons, en particulier le désir de ne pas créer de précédents désavantageux (c'est-à-dire en Ontario, aux États-Unis ou dans des industries connexes en Alberta même) et par suite également de l'apathie des membres des syndicats et de leurs dirigeants à cause de leur stratégie qui visait « à surmonter la crise ».

Se trouvant places devant un taux de chômage élevé dans l'industrie et par conséquent devant une concurrence acharnée de la part des entreprises non syndiquées, les entrepreneurs dont les chantiers étaient régis par des conventions collectives cherchèrent à trouver des moyens de faire face à la concurrence. Plusieurs d'entre eux restructurèrent leurs organisations, se limitant à être maître-d'oeuvre en faisant effectuer tout leur travail par des contrats de sous-traitance selon la formule de P-atelier ouvert. Un lobby d'entrepreneurs cherchant à légitimer cette pratique a conduit à une nouvelle législation à la fin de 1983; mais celle-ci n'a pas été proclamée et, plus tard, a été rappelée. Toutefois, une série de décisions de la Commission des relations du travail touchant ces entreprises restructurées a clarifié comment pareille restructuration peut se faire sans violer les dispositions de la loi. De plus, pendant la ronde de négociation en 1984, les entrepreneurs découvrirent un moyen légal de mettre fin aux conventions collectives; ils y recoururent avec succès et, subséquemment, mirent en vigueur des conditions de travail nouvelles. Une grève des plombiers à Calgary destinée à contrer ces tactiques fut en règle générale contournée par les entrepreneurs, ce qui donna lieu à plus d'accords dans des contrats individuels de construction dont les conditions étaient inférieures aux taux de salaires qui prévalaient antérieurement. Cette expérience semble avoir généré une répugnance générale parmi les autres syndicats de recourir à la grève.

Toutefois, une grève des travailleurs en fer structural, qui occupaient une position stratégique sur les chantiers, n'apporta apparemment que des replis peu importants en 1985. La plupart des entrepreneurs, qui étaient liés par convention avec les syndicats, survécurent à la récession de 1982-1983. Le pendule du pouvoir de marchandage avait basculé, au moins temporairement du cote des entrepreneurs en Alberta. Le gouvernement provincial, pour divers motifs, répugnait à intervenir. L'impact de ces baisses fut différent d'un métier à l'autre, mais, d'une façon générale, les revenus de base diminuèrent. Plusieurs membres des syndicats des métiers de la construction restèrent sans travail et la majeure partie de ceux qui travaillaient n'étaient plus protégés par des conventions collectives. Les entrepreneurs généraux et, à un moindre degré, les entrepreneurs spécialisés avaient accepté l'idée d'un régime non syndique. Les firmes non syndiquées avaient acquis l'expérience et la compétence nécessaire à la réalisation de contrats de plus en plus gros et payants. Il reste à voir si la construction industrielle demeurera ou non le dernier bastion syndique de l'industrie. Plusieurs solutions peuvent émerger face au défi auquel les syndicats sont acculés, y compris les difficultés internes qu'il leur faut envisager. Le temps dira s'il y aura un ensemble de nouvelles mesures audacieuses, possiblement modelées d'après les programmes appliqués à la suite de la reprise récente de l'activité sur le marché du travail aux États-Unis ou des variantes de ceux qui ont été expérimentés antérieurement.

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Alberta's Construction Labour Relations During the Recent Downturn

**E.G. Fisher
and
Stephen Kushner**

This paper describes and analyses from a labour relations perspective the rapid changeover of Alberta's construction industry from 70-80% unionized projects during 1975-1982 to a 5-10% coverage of projects by collective agreements commencing in 1984.

In the spring and summer of 1982 after a series of legal work stoppages, Alberta's construction unions and contractors concluded more than thirty collective agreements giving workers record monetary pay increases. The parties had no inkling of the construction crisis that was only months away. The bottom figuratively fell out of the construction market, unleashing considerable competitive pressures. Alberta's construction industry had exhibited a capacity for \$5 to \$14.5 billion in work per year during the «boom» years, 1976-1982, with over 70% of the projects unionized¹. By late 1984 construction dollar volume had shrunk to less than \$7 billion per year, with over 90% of the projects operating «nonunion» (i.e., without collective agreements but possibly with some union members). Gross wage rates dropped appreciably (e.g., by 12% to 38%) during 1982-84, as Alberta's contractors converted to nonunion operations. Moreover, even though July construction unemployment had averaged 6.2% during 1980-82, it reached 20% during July of 1983, and some locals reported unemployed in the «30% - 50%» range².

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Although the maximum size of jobs bid by nonunion construction firms had risen from about \$12 million in 1979 to \$50 million in 1982, it jumped to \$150 million in 1984. As early as May 1, 1982, 805 nonunion contractors were operating in Calgary and Edmonton³. Some nonunion firms were known to be the arms of unionized contracting firms, while others were joint venture arrangements intended to shield the true partners. In addition, several no-name, numbered «payroll-only» companies were established. Each was used for a short time and changed by the «labour brokers» operating them, largely to protect them from possible unionizing efforts⁴. On some sites there were «composite crews» of tradesmen, both covered and not covered by collective agreements and working side by side.

This article examines and analyzes from a labour relations point of view the difficulties facing workers, unions, contractors, and government in coping with an industry which *unexpectedly* collapsed in a very short time period (*i.e.*, approximately two years) after a much longer period of considerable activity. The economic fluctuations experienced in Alberta during 1975-86 are not new to the industry. Construction inherently responds to fluctuations in the level of economic activity, especially investment decisions, and nonunion contractors typically replace union contractors during downswings and *vice versa*⁵. Investment decisions, in turn, are influenced by such factors as prevailing interest rates, available financing, and expected (future) demand for the service or product for which projects are intended, including anticipated prices. Each project, therefore, may be economically feasible one day, yet shelved indefinitely the next. Significantly, the nature and severity of the downturn in Alberta's construction industry, particularly its unionized sector, probably are unique. Nevertheless, the lessons or guidelines that can be extracted from this experience may be applicable elsewhere. Our analysis highlights economic, political (both *vis-à-vis* government and within employers' organizations and building trades unions), legal and psychological constraints (*e.g.*, in adjusting perceptions and expectations). For substantiation, we draw upon the excellent background research of Ron Brown, particularly the interviews of twelve key participants and observers he conducted⁶.

BACKGROUND FACTORS

Alberta's economy is resource-based and benefitted considerably from the OPEC-lead, substantial increases in world prices of oil during the 1970s⁷. As the major oil-producing province in Canada and a major natural gas-producer for both Canada and the United States, Alberta experienced a major upswing in economic activity during the 1970's and very early 1980's.

This upswing spawned considerable construction activity in all segments of the construction market and stimulated, and generally sustained, a relatively buoyant regional economy in Alberta. One «mega-project», Syncrude, and several other major scale, industrial projects were the linchpins of Alberta's economy during the years of prosperity from 1975 through 1982⁸.

Union Penetration

Industry experts estimated that contractors employing unionized labour had captured 70-80% of the institutional, commercial and industrial new construction markets during 1975-81⁹. Operating nonunion definitely was not the norm in Alberta prior to 1982-86. Indeed, most construction firms never experienced a union certification drive, but rather voluntarily recognized one or more unions.

Bargaining Structure

The bargaining structure in Alberta's construction industry is fragmented, in the sense that there are some 40 different «trade (bargaining) tables», and 19 different unions in the building trades¹⁰. Trade certificates are issued on a geographical basis. Several are split between different regions (*e.g.*, north/south), while many are province-wide. Bargaining for some geographically split unions is conducted on a province-wide basis¹¹.

By contrast, the bargaining structure is centralized among contractors, with one employer's organization conducting most of the bargaining and a few smaller, separate contractors' associations bargaining with individual trades. Provincial legislation allows an employer to authorize a voluntary employers' organization to negotiate and bind it to a contract during a given round of negotiations. In addition, a «registration certificate», conferring exclusive bargaining agent status, can be issued to a contractors' organization demonstrating majority support among all contractors covered by a geographical trade certificate issued to a particular building trades union¹². Construction Labour Relations — an Alberta association (CLR) represented contractors at the vast majority of trade tables in Alberta during the 1970's and 1980's, both as a voluntary association and as a registered employers' organization.

TABLE 1
Union Hourly Gross Wage Rates in Alberta: 1975-88

	1975	1976	1977	1978	1979	1980	1981	1982	1983†	Apr/** 1984	Apr 1985	Apr 1986	Apr 1987	Apr 1988
Plumbers (Edm)	10.19	12.12	12.30	14.16	15.01	16.24	17.75	19.67	22.67	23.21	*	*		
Electricians (Edm)	10.09	11.96	13.24	14.12	14.96	16.20	17.74	19.66	22.76	23.37	Project-adjusted			
Sheet Metal (Edm)	9.98	11.50	12.80	13.56	14.34	15.78	17.79	19.37	21.66	19.65	19.65	20.82		
Carpenters (Edm)	9.48	11.16	12.41	13.17	14.02	15.15	16.60	18.61	20.71	21.58	*	*		
Ironworkers Reinforcing (Edm)	8.98	10.68	12.00	13.09	13.98	15.22	16.73	19.37	21.49	22.06	*	14.49	15.27	16.07
Laborers (Edm)	7.47	9.01	10.21	10.94	11.56	12.57	13.66	14.97	16.80	18.09	*	*		

LEGEND:

Gross wage rates include net rate plus health and welfare plus pension plus statutory holiday pay plus vacations plus various supplemental funds

† 1975-83 union gross wage rates are a weighted average rate for the calendar year (per hour)

* 1984-88 union gross rates on April 30th of the specified year (per hour)

** No collective agreement in effect

** Represents the expiry date for most construction agreements in 1984

Edm Edmonton

The 1975-82 Environment

Negotiations during 1975-82 were characterized by optimism and the unions' possessing considerable bargaining power *vis-à-vis* contractors, as is typical of buoyant conditions in construction. Contractors carefully selected the jobs for which they submitted bids, seeking the most profitable opportunities, including lucrative «cost plus» projects where labour costs are passed directly on the owners/investors. Workers shopped for contractors offering the greatest amount of overtime. Manpower planning became a crucial activity, for apprenticeship programs failed to meet the skill requirements of ongoing projects.

In this environment, contractors were quite vulnerable to work stoppages or the threat thereof. Many of them faced penalty clauses for late completion and potential financing problems, due to the large amounts of capital they had tied up in their projects, should a strike occur. Moreover, strike delays would translate into lost revenue opportunities, especially for sizeable projects in the energy sector. These factors meant that contractors were under pressure to settle relatively quickly and presumably somewhat higher than they ideally would like to.

With the exception of 1977, due to wage restraint legislation, bargaining rounds during 1975, 1978 and 1980 were characterized by substantial compensation settlements and many work stoppages¹³. Gross hourly wage rates for most trades were roughly three-quarters higher in 1981 than in 1975. (See Table 1).

The 1982 round involved several short strikes, and settlements on wages and fringe benefits ranged between 26% and 30% over two years (see Table 1). The climate surrounding negotiations was important:

«You have to realize the climate in which these agreements were reached. The Alsands Project Agreement was signed by all parties and the entire project was cancelled two weeks later. Premier Lougheed was optimistic that there would be two tar sands plants and the Foothills Pipeline going ahead. We were being reminded by the Federal Department of Labour that we would have to take in labour from Ontario and Québec.»¹⁴

Some industry observers claim that the 1982 settlement involving the Electrical Contractors Association of Alberta and the International Brotherhood of Electrical Workers added nearly one dollar per hour over the two years of these labour contracts¹⁵. The unusually high profile of both high level officials and mediators from Alberta Labour may have contributed to the hardening of the bargaining positions taken by the building trades unions during 1982. Brown attributed the 1982 and earlier bargaining outcomes to «greed»¹⁶.

END OF CONSTRUCTION PROSPERITY AND CONCESSION DISCUSSIONS

Largely due to declining oil prices and high interest rates, two mega-projects (Cold Lake and Alsands) were shelved during the spring of 1982. This triggered a chain reaction of postponements and cancellations of hundreds of projects of all sizes by the end of that summer. The dollar volume of construction necessarily dropped considerably thereafter, causing unemployment to soar in the industry (see Table 2 and Table 3). As a result, competition increased substantially on construction projects put to tender.

TABLE 2

Alberta Value of Construction Work Performed: 1975-85

Year	VALUE					
	(in Million \$ and Current \$)					
	ICI	Resident'l	Roads	Water/Power	Gas/Oil	Total
1975	611	849	310	496	904	3921
1976	675	1700	314	560	1262	5197
1977	838	1813	370	667	1563	6195
1978	1208	2427	424	659	2152	7410
1979	1842	2647	509	807	3093	9373
1980	2284	2479	581	1137	4491	11693
1981	3142	2830	858	1339	4747	14490
1982	3339	2319	1009	1743	1669	10940
1983	2434	1809	784	1573	823 #	8235
1985*	1843	1151	781	1277	531 #	6486
1985**	1469	1033	841	1201	708 #	5947

LEGEND:

ICI	Institutional, Commercial and Industrial
Resident'l	Residential
Roads	Roads/Highways
Water/Power	Waterworks/Sewage, Dams/Irrigation, Electric Power and Rail Road/Telephone/Telegraph
Total	Also includes: Misc. Building, Marine and Misc. Engineering
*	Preliminary Estimate (Stats Canada)
**	1985 Forecast (ACA)
#	exclusive of gas and oil well drilling

Source: Statistics Canada

Alberta Construction Association Annual Forecast

Although union contractors shared similar cost structures due to the identical labour costs in trade agreements, contractors without collective agreements did not. In fact, these nonunion contractors, who formerly had offered union wage scales to attract a skilled work force, found that, since unemployment in the construction industry had risen appreciably, they could lower labour costs and successfully bid on many projects, while maintaining acceptable profit margins.

TABLE 3
Alberta Construction Employment/Unemployment: 1976-85

<i>EMPLOYMENT/UNEMPLOYMENT</i> (Thousands in December)			
<i>Year</i>	<i>Employed</i> (000)	<i>Unemployed</i> (000)	<i>Unemployment Rate</i> (%)
1976*	78	5	6.0
1977	81	8	9.0
1978	93	8	7.9
1979	102	7	6.4
1980	99	6	5.7
1981	94	5	5.1
1982	77	15	16.3
1983	68	29	29.9
1984	62	27	30.3
1985	69	17	19.8

LEGEND:

* Statistics for Alberta combined into «Prairie Region» during 1975

Source: Statistics Canada, *The Labour Force*, 71-001

In response to such intensive competition, union contractors began reducing overhead and operating costs by cutting staff and salaried employees' pay¹⁷. Estimating became the primary focus of activities, as efforts doubled and tripled to get work — usually to no avail. Bankruptcies, voluntary closures and downsizing of operations became commonplace. Even major unionized companies with years of experience in Alberta were not immune to the market; nor were the terms and conditions in collective agreements.

The first of several approaches to the unions to renegotiate what contractors considered to be obsolete documents took place in the fall of 1982, barely five months after the first of these two-year agreements had been concluded and well before the full effects of the construction recession. Unionized contractors perceived that the market was shifting in favour of the nonunion sector and expected this trend to continue. Formal discussions were initiated in September of 1982 with several unions, but concessions were not forthcoming. Therefore, contractual provisions prevailed.

Wage surveys in 1982 and 1983 by Construction Labour Relations revealed a growing gap between union and nonunion wage rates (see Table 4). By February of 1983 CLR and the Alberta and North West Territories Building Trades Council had jointly established a «Getting Competitive Committee». The Committee agreed upon a five point recovery plan involving, for instance, wage and benefit (*e.g.*, travel time pay) decreases. The plan, however, could not be sold to the Building Trades Council and, therefore, never was presented to the memberships of Alberta's construction unions¹⁸.

Despite the obstacles, efforts by the parties continued to address the unionized construction industry's weak competitive position. They took place at the local, provincial and national levels during May through December of 1983, but little came of them. While these efforts were taking place, the bid of the Esso Cold Lake energy project (Phases I and II) closed and was awarded to nonunion contractors, partly because the unions could not agree on a concession package. Cold Lake became the largest energy project in Alberta without collective agreement¹⁹.

Nevertheless, concessions were granted by the sheet metal workers' union during November of 1983. After the sheet metal union had been placed in trusteeship, a memorandum of agreement was reached and ratified, calling for a wage decrease of \$3.29 per hour or 16.3% effective November 25, 1983. The wage rate was to increase 6.1% effective May 1, 1985²⁰. The agreement also envisaged future meetings to consider additional rollbacks, if necessary.

The sheet metal agreement became the only major rollback in the industry during 1983, allowing for substantial savings to any contractor with work between December, 1983 and April 30, 1986. This proved to be a major selling point for contractors. Of course, the union believed it could hold market share and provide jobs. The agreement also allowed union officials to make future concessions without ratification. Nevertheless, many contractors stated that the deal was insufficient, while other unions openly criticized the agreement as being excessive²¹.

TABLE 4
Union/Non Union Comparisons in Alberta: 1982-83

	Nonunion Gross Wage Rate/hourly Dec/1982	Union Gross Wage Rate/hourly Dec/1982	Differential (%) Dec/1982	Nonunion Gross Wage Rate/hourly June/1983	Union Gross Wage Rate/hourly June/1983	Differential (%) June/1983
Plumber	19.00	21.58	-12.0%	18.72	23.17	-19.2%
Electrician	19.21	21.56	-11.9%	18.46	23.36	-21.0%
Sheet Metal Worker	*	*		17.24	22.29	-22.7%
Carpenter	*	*		15.37	21.58	-28.8%
Iron Worker (Reinforcing)	*	*		16.27	22.06	-26.2%
Labourer	*	*		10.18	16.99	-38.1%

LEGEND:

* No survey information available

Source: Nonunion wage surveys conducted by Construction Labour Relations — an Alberta association

UNION RESISTANCE TO CONCESSIONS

There were many reasons building trade unions, though occasionally coming very close to settling with contractors, very rarely «cut a deal». They included a lack of trust and, significantly, the fact that building trade unions did not simultaneously experience the full impact of the market collapse²². The unequal distribution of unemployment among construction unions presumably reinforced their traditional rivalries, in terms of both jurisdictions and positions in the wage hierarchy and, correspondingly, their self-images at the bargaining table. Furthermore, officials in certain key trades sought to avoid creating potentially bad precedents for negotiations in closely aligned bargaining units, elsewhere in Canada or, perhaps, in the United States²³.

Other political and strategic considerations hindered building trades members and officials from reacting quickly enough to «stem the (nonunion) tide» during 1982-84. Construction union members attempted to hedge their bets. They desired to earn contractual rates on union jobs and, frequently confronted with considerable unemployment in their trades, were prepared to work on nonunion sites for lower remuneration or to collect unemployment insurance compensation and wait things out. Fearful of losing their positions and seeking members' dues, building trades union officials clearly sought to retain past gains and permitted tradesmen to work on nonunion projects, as is required by law when the union cannot provide alternative work²⁴. Moreover, many construction union leaders had recently been elected on promises of improved wages, hours and working conditions and did not have the political strength to counsel a radical change in the unions' approach, even in the face of the new economic realities²⁵. These factors contributed to an overall strategy on the part of members and officials alike of electing to «ride out the storm», waiting for the next major upswing²⁶. Unfortunately, no major upswing occurred.

In short, politically conservative, «blue collar», highly pragmatic, building trades unions suffered from internal political inertia, flowing up from the grass roots, imposed from above in some cases, or emanating from local leaders and/or their peers.

«SPIN-OFFS:» STATUTORY AND CASE LAW DEVELOPMENTS DURING 1981-83

Contractors had been struggling to keep their businesses viable and felt restricted from opening nonunion arms because of Section 133 of the Alberta *Labour Relations Act* which seemed to prevent such «spin-offs»:

On the application of a trade union or on its own motion when, in the opinion of the Board, associated or related activities or business, undertakings or other activities are carried on under common control or direction by or through more than one corporation, partnership, person or associations of persons, the Board *may* declare the corporations, partnerships, persons or associations of persons to be one employer for the purposes of this Act [emphasis added].

Significantly, the Board's power is discretionary.

Confronted with this perceived restriction, Alberta's unionized contractors resisted or tested it on two levels during 1981-83. One level comprised a major lobby effort directed at Government during 1983 to achieve a repeal of Section 133, thereby allowing contractors to legally operate nonunion companies. It culminated in a legislative initiative during late 1983²⁷. Although so-called Bill 110 apparently represented an effort by Government to save jobs and promote economic growth, many construction projects already had been shelved. The new bill was not proclaimed and was rescinded early in 1984, following a concerted lobbying effort by organized labour in the Province. The other level consisted of attempted restructuring of construction firms, in order to «double-breast» or «spin-off» nonunion operations, yet not be captured under Section 133. It was waged before the Labour Relations Board in response to union complaints lodged under that section and related ones.

In terms of case law, a potential avenue that the Labour Relations Board might follow in «piercing the corporate veil» was illustrated in a 1982 decision that successor rights and obligations applied to a newly formed construction firm operating without regard to the collective agreement binding its predecessor²⁸. However, the Board subsequently decided that a formerly unionized construction firm, which had converted to a «project management» operation, no longer was covered by the collective agreement then in force and negotiated pursuant to a registration certificate. The restructured firm did not directly hire employees; instead, it subcontracted all the work on the project it was managing. It, therefore, was not «employer of employees» engaged in the trade and territory specified by that particular registration certificate²⁹. Project management by a general contractor always had been immune from the Act, since there could be no direct hiring of employees, but it also was a less lucrative activity. In a subsequent case, the union applied for a declaration that two allegedly allied firms, one subject to a collective agreement and the other not, were the same company under Section 133 of the Act. The potentially related company, however, had no employees, since it subcontracted all its work (on an «open shop» basis). It consequently, was not an «employer», could not be certified and, therefore, could not be subject to a collective agreement. In effect, this decision added another test, namely being an employer of employees, for coverage under Section 133³⁰. Though somewhat am-

biguous, this decision was not found to be «patently unreasonable» in *certiorari* proceedings before the Alberta Court of Queen's Bench³¹.

Perhaps, the most important decision in what became a long line of decisions was *Canyon Industries*, where the Board decided that a spin-off declaration was not retroactive from the date of the Board's declaration³². This decision seemed to greatly reduce the risk of companies' trying to open nonunion operations, since damages would be virtually non-existent. In particular, back wages presumably would not be awarded. The financial risk of a company's being declared to be a spin-off could be minimized even further, for it could immediately be mothballed and the contract re-awarded through another such company³³. In the final analysis, these decisions were consistent with Alberta Labour's stated policy of not being «the policeman on the beat» in enforcing Section 133³⁴.

SPIN-OFFS AND CONTRACTOR STRATEGIC DECISIONS: 1984-85

Partly enabled by the preceding interpretations of Section 133 (as well as 54 and 56)³⁵, 1983 became the year of the nonunion contractor. Indeed, there was a dramatic growth of nonunion companies, both from outside and within Alberta³⁶. This development was necessitated primarily for organizational survival. Larger contractors, in particular, normally either established spin-offs or restricted themselves to project management.

The dramatic movement towards nonunion construction was not necessarily greeted with enthusiasm by formerly unionized contractors:

«Most contractors would prefer (*sic*) to work with the union. It provides a stable work force with reasonable skill level, and the price of labour is stable and predictable for bidding purposes.»³⁷

Indeed, the issue of fostering a stable, motivated work force, for instance, through a «company pension fund», confronted contractors who had sub-contracted their entire operations³⁸. Moreover, it probably was not a long term solution to set up spin-offs as management companies operating on a 100% sub-contract basis, for the «company would lose control and be at the mercy of sub-contractors in the different areas in which it bids»³⁹. Nevertheless, such arrangements were preferable to a complete shutdown of a company, in order to open nonunion at a later date: «These are matters of contracts, warranty obligations, loss of reputation, and deferred taxes, which in a construction company can equal 50% of equity»⁴⁰.

Contractors, including major industrial operations, and unions faced renegotiations during 1984 and the potential for eliminating the possibly stopgap measures of spin-offs, labour brokers, project management contractors, and joint ventures. Many construction collective agreements in

Alberta contained the common expiry date of April 30th, 1984. Confronted with the option of operating nonunion, contractors generally wished, first and foremost, to resolve the uncompetitive position of unionized firms at the bargaining table. Most contractors entered the bargaining round hoping the unions would realize that fully competitive collective agreements were the only salvation for the unionized sector of the industry.

STRATEGIC DECISIONS

Prior to the bargaining round, union contractors evaluated three broad bargaining approaches⁴¹:

1. Take what the unions offer at the bargaining table, recognizing that union construction operations would shortly cease or become dormant, since the unions would fail to offer what was required to be competitive. This strategy would avoid conflict at all costs.
2. Make the best short term deal and return to the bargaining table in one year to attempt to continue extracting concessions. A contractor could gradually become competitive, if he could survive a series of one-year agreements.
3. Become fully competitive by enduring a work stoppage, if required. In the event of a work stoppage, the contractor must be willing and able to replace the workforce or subcontract all or some of the work at competitive market conditions, thereby pressuring a union eventually to sign a competitive agreement.

The latter option evolved as the main approach to bargaining. In order to implement the «survival» strategy of inducing concessions at the bargaining table in conjunction with legal work stoppages, contractors needed to be able to terminate collective agreements. This would enable them next to hire a work force, possibly their formerly unionized work force, under competitive terms and conditions, so they could apply pressure on the unions to sign fully competitive collective agreements. A continued refusal by unions to negotiate new agreements would enable contractors, having unilaterally altered terms and conditions of employment, to compete in the market place⁴².

Contractors felt that, by virtue of both the legislation and the termination procedures in the various collective agreements, the agreements could be terminated by appropriate notice and/or a legal lockout. They instituted termination measures during late 1983 through the Alberta Roadbuilders Association and during the spring and summer of 1984 through CLR, which also initiated 24-hour lockouts.

UNION LEGAL CHALLENGES AND STRIKES: 1984-85

Construction unions responded by challenging the legality of termination actions before the Alberta Labour Relations Board. The operating engineers, for instance, had obtained a Board ruling that negotiations, followed by an unsuccessful strike vote and further negotiations, had not terminated their agreement with the roadbuilders, in accordance with both their collective agreement and the bargaining procedures set forth in the statute⁴³. Roadbuilders, however, successfully challenged that decision. It was ruled at the Court of Queen's Bench level that the continuation clause in the collective agreement was inoperative and, therefore, had failed to override termination provisions, even though negotiations still were in progress. But, the latter decision subsequently was reversed by the Alberta Court of Appeal⁴⁴. Moreover, the Court of Appeal also upheld a later ruling by the Board that a subsequent, unsuccessful lockout vote, followed by a cessation of negotiations meant the parties had exhausted the procedures in the Act, thereby terminating their agreement⁴⁵.

The Alberta Labour Relations Board ruled on April 30, 1984 that certain CLR trade divisions lacked authority to include termination procedures in the collective agreements for certain of its bargaining units, namely those for which it had registration certificates. However, this Board decision later was overturned in *certiorari* proceedings before the Court of Queens' Bench⁴⁶. In another decision the Board found that certain employers had restrained employees from exercising their right to engage in collective bargaining by unilaterally altering their terms and conditions of employment⁴⁷. In particular, it ruled that a lockout did not enable employers to deviate subsequently from the terms and conditions of employment in effect prior to the lockout and declared such unilateral alterations to be nugatory. This decision also was subjected to *certiorari* proceedings, found to be patently unreasonable and ordered quashed⁴⁸. Contractors, therefore, had the right to alter terms and conditions of employment after the commencement of a lockout. The Alberta Court of Appeal upheld the latter decision on January 18, 1985⁴⁹. But, in a curious break from curial deference, a Court of Appeal judge had stayed the application of the latter ruling as it affected the applicant unions. The stays added to uncertainty, since they required adherence to the terms and conditions of previously expired and terminated agreements. In any case, three Calgary contractors ordered to pay union wages to their plumbers no longer employed union members, and the remaining two had negotiated lower wages, following a strike, pending final disposition of the matter⁵⁰.

Unions simultaneously and subsequently sought to maintain the terms and conditions in their collective agreements through the certification pro-

cedures that «freeze» them, once a certificate has been applied for. Many unions could apply for certificates, since they had been voluntarily recognized. The Labour Relations Board, consequently, was faced at one time with nearly one thousand applications for certificates in the construction industry⁵¹. This defensive reaction was a stopgap action, for it could provide for a frozen terms and conditions of employment until «(a) the date of its refusal, or (b) 30 days after the date of certification»⁵².

The union strategy of legal challenges was criticized by some observers. The legal system was not viewed as being the proper forum for resolving bargaining table issues, and it was argued that the proper sanction to be exercised was the strike weapon⁵³.

Strikes

Only the Calgary plumbers responded to 24-hour lockouts during 1984 by initiating a counter-strike. Plumbing work was carried out on most projects during the bitter, three-month strike, which culminated in wage reductions for many on-going projects⁵⁴. The plumbers' strike represented a major accomplishment by contractors, possibly being the first time they had successfully countered a strike in Alberta. Furthermore, it presumably generated a reluctance by other construction unions to exercise the lawful strike right during 1984 and up to the summer of 1985. The key determinant of a union's ability to conduct a strike is, of course, the relative indispensability of its members to the employer. This fact became imminently clear in a three months' strike by structural ironworkers during the summer of 1985. An apparently minimal wage rollback was all that resulted, as contractors had failed to find suitable replacements for striking ironworkers⁵⁵.

SETTLEMENTS AND NEAR AGREEMENTS: 1984-85

As a November 1985 the strike-induced agreement with structural ironworkers represented the only collective agreement involving CLR, since the signing of the sheet metal agreement in the fall of 1983. An earlier settlement heralded as potentially having major importance involved the Electrical Contractors Association of Alberta, bargaining independently of the CLR, and electrical workers⁵⁶. The agreement, as concluded in mid-1984, specified no change in wage rates and empowered the union to negotiate specific conditions on an individual project bases⁵⁷. Contractors in other sectors of the industry feared, however, that the latter provision provided the local union executive with considerable influence as to which contractor(s) could successfully bid on a project⁵⁸. It also could cause political problems within the union by layering members' pay rates possibly for equivalent work.

Aside from sheet metal workers in 1983, rollbacks also had been recorded in 1984 for Alberta Crane Owners and operating engineers; the Glass Company Employers Organization and glaziers (Calgary); roofers — Lethbridge; sheeters, cladders and deckers — provincial; and tile trades — Southern Alberta, as well as early in 1985 for roadbuilders and operating engineers⁵⁹. The glazier agreements called for subsequent increases, resulting in positive wage increases over their duration. There were a few additional agreements involving 0% wage increases during 1984 (e.g., Fence Erection Constructors and ironworkers, in addition to sidewalks, curbs, etc. contractors and general workers)⁶⁰. By contrast, agreements between the Pipeline Contractors Association of Canada and labourers called for wage increases over 1983-85, while its agreements with plumbers and pipefitters, teamsters and operating engineers involved 0% wage increases in 1983 but positive wage hikes in 1984⁶¹. Significantly, a nationally bargained boilermaker agreement providing for no wage concessions was not declared to be in effect by the Labour Relations Board, since the Boilermakers Contractors Association does not have jurisdiction to bargain for the provincial association under Alberta's *Labour Relations Act*⁶².

In addition, several major private or project agreements were either reached or nearly concluded between individual contractors and unions. For instance, Phases III and IV at Cold Lake went to a union contractor (Dillingham), which sought a uniform agreement for all trades on the job. All unions, except the boilermakers, accepted the terms and conditions without signing the deal⁶³. There had been a general agreement with the contractor performing the \$700-million Syncrude plan expansion, apparently calling for 20% rollbacks in wages and benefits⁶⁴. The deal, however, reportedly fell apart when boilermakers failed to approve it⁶⁵. It was concluded successfully during December of 1985.

SIGNIFICANT EVENTS IN THE FIRST ONE-HALF OF 1986

There were at least seven potentially significant events and responses during the first six months of 1986.

Perhaps, first and foremost was the precipitous decline of world oil prices. It put a further damper on Alberta's «oil patch», notably diminishing exploration. However, it may mean that greater emphasis will be placed elsewhere in Alberta's regional economy, thereby potentially spurring more construction activity.

Second, the Labour Relations Board, under new leadership since late 1985, issued a decision clarifying the evidentiary onus necessary to establish that a nonunion contracting company constitutes a spin-off⁶⁶. Because it may be slightly more prepared than its predecessor to pierce the corporate veil, the LRB's caseload on alleged spin-offs may increase in future.

Third, the sheetmetal workers' union concession agreement expired during the spring of 1986. Following its termination, CLR locked out the minority of the union's members still working for approximately one day and unilaterally altered terms and conditions of employment. Hence, one of the few unions previously accepting concessions became a victim of the contractors' «survival» strategy tactics⁶⁷.

Fourth, reinforcing ironworkers agreed to a substantial wage rollback (*i.e.*, roughly \$7.50 per hour) over 25 1/2 months effective 21 April 1986⁶⁸. Bricklayers granted concessions to a somewhat lesser extent effective 3 April 1986 and expiring 30 April 1988⁶⁹.

Fifth, discussions were continuing through the Construction Industry Advisory Council of Alberta (CIACA) about potential legislative changes. Such amendments, if they can be agreed upon by unions and management and implemented by the Government, could result in more centralized construction bargaining, possibly on both sides of the bargaining table, and, perhaps, greater stability in the union sector of construction⁷⁰.

Sixth, a Progressive Conservative Government under a recently selected Premier was elected during May of 1986 and new Minister of Labour appointed. The Government faces a much stronger opposition and may feel pressured to amend labour legislation, in order to erode New Democratic support in future elections.

Seventh, a lengthy and violent strike at a meatpacking plant in Edmonton (Gainers) was a key factor prompting the Government to review picketing regulation, termination procedures and the currently nonmandatory rehiring of strikers at the conclusion of a strike under the *Labour Relations Act*⁷¹. Both the Throne Speech and the Minister of Labour personally committed the Provincial Government to a review of labour law.

CHALLENGES

Nonunion construction is a fact of life and here to stay. It has emerged where labour legislation creates certain barriers for spin-offs yet provides a nonunion constraint on union contractors. Under predominantly nonunion construction in Alberta, terms and conditions of employment have tended to become «multi-layered», reflecting both project nature and market conditions, through project agreements and informal arrangements between contractors and unions. The former wage pecking order no longer predominates.

Models for accommodating union agreements with prevailing market conditions have emerged for the Gulf Coast of the United States, which is considered the proper «orbit of comparison» by several observers. Some American construction collective agreements, for instance, provide lower actual labour costs to contractors by rotating workers through various pay grades⁷².

The activity of the major investors will be scrutinized by all parties. Will major energy investors grant the largest jobs to nonunion contractors, thereby breaking with the past, or will industrial construction be the only haven for the union worker? Given the rapidity with which the commercial and institutional markets became nonunion, observers would not be surprised to see the nonunion sector become dominant in large dollar, industrial projects. Significantly, nonunion operations have acquired not only highly skilled tradesmen but also the managerial and technological expertise for mounting and completing extremely large-scale projects⁷³. It probably will be more difficult for general contractors, as opposed to specialty contractors, to return to union construction⁷⁴.

The pendulum of relative bargaining strength definitely has swung at least temporarily towards employers, specifically contractors, in Alberta. Union leaders fell «hard done» by this shift and especially by the kinds of events that accompanied it. Previously existing internal political obstacles continue to face union leaders, as does a generally gloomy prognosis for the industry, since markets remain relatively depressed⁷⁵. Most formerly unionized contractors have survived, while many members of building trades unions remain either unemployed or at work, but without the protection of a collective agreement. Construction unions in Alberta have responded in a variety of ways to the challenges confronting them, and those challenges remain, particularly since only 5% to 10% of the industry is covered by collective agreements. Will there be a series of new, bold responses or variants of previously tested ones? Time obviously will tell.

NOTES

1 Ronald A. BROWN, «The Growth of Non-Union in Construction in Alberta», M.B.A. Graduating Research Project, Edmonton, Faculty of Business, University of Alberta, 1984, p. 25; and «Unions See Little Hope in Mired Talks», *Edmonton Journal*, January 25, 1985.

2 See Tables 1-3 below and *Constat*, Construction news from Construction Labour Relations — Alberta, August 24, 1983, p. 4.

3 BROWN, *op. cit.*, 1984, Interview Number 1, p. 4.

4 BROWN, *op. cit.*, 1984, pp. 57-58.

5 See for example, Clinton C. BOURDON and Raymond E. LEVITT, *Union and Open-Shop Construction*, Toronto, D.C. Heath & Co., Lexington Books, 1980.

6 «The Growth of Non-Union Construction in Alberta», 1984, *op. cit.*, note 1.

7 OPEC stands for the «Organization of Petroleum Exporting Countries».

8 «Mega-projects» are not defined in P.C. Weiler, *et al.*, eds., *Mega-Projects: The Collective Bargaining Dimension*, Ottawa, Canadian Construction Association, 1981. Instead, a «cluster of variables» were suggested for determining whether or not a project constitutes a «mega-project» p. 19.

9 Residential construction traditionally was primarily nonunion, due chiefly to its much smaller scale. Indeed, one observer put it as follows: «The housing industry, on the other hand, has no 'mother-lode'. The consumer is the immediate recipient of the extra costs that he cannot afford. The housing industry is not organized (*sic*), as the unions were loathe to have two sets of pay and the people were hard to organize. Companies were small and workers were transient. As a result, there were created vast pools of skilled workers in the nonunion market. They may not be as highly skilled as union workers, but they are numerous and a threat». BROWN, *op. cit.*, 1984, Interview Number 11, pp. 3-4.

10 Their short form names are as follows: boilermaker, bricklayer, carpenter, cement mason, culinary worker, electrician, elevator construction, glassworker, insulator, ironworker, labourer, millwright, operating engineer, painter, plasterer, pipefitter, roofer, sheet metal worker, and teamster, BROWN, *op. cit.*, 1984, p. 19.

11 Robert MITCHELL, «Syncrude Project», in Weiler, *et al.*, *Mega-Projects*, *op. cit.*, pp. 387-466, at p. 417 and p. 423.

12 *Labour Relations Act* (LRA), R.S.A. 1980, ch. L-1.1, ss. 1, 29-31, 50-61, and 73-77.

13 MITCHELL, *op. cit.*, pp. 417-426.

14 BROWN, *op. cit.*, 1984, p. 35.

15 Settlements were expected, and headed, in the \$4.00 per hour range, until the 1982 electrical memorandum of settlement at \$6.02. Although the tentative settlement of \$6.02 over two years subsequently was rejected, its rejection preceded settlements at other trade tables. It arguably elevated union expectations. Indeed, key groups ultimately settled in the \$4.80 to \$5.02 range over two years. See, for instance, BROWN, *op. cit.*, 1984, Interviews Number 3 and 4.

16 *Ibid.*, pp. 100-101.

17 For instance, one major contractor, PCL, cut 30% of its executive, managerial and salaried staff. See CLR, *Constat*, June 17, 1983.

18 BROWN, *op. cit.*, 1984, Interview Number 10, p. 4: «My personal view is that 13 of the 17 building trades would settle in a minute at lower wages. There are about 4 dominant unions in the Building Trades Council, which have the dollars and the clout. These include the Electricians and Pipefitters».

19 BROWN, *op. cit.*, 1984, Interview Number 8, p. 7.

20 Alberta Labour, *Alberta Construction Industry Union Wage & Benefit Reports*, April, 1985, pp. 34.1 and 34.2.

21 Some sheet metal work was subcontracted nonunion while the 1983-86 agreement was in force. See BROWN, *op. cit.*, Interview Number 8, p. 3.

22 *Ibid.*, Interview Number 4, p. 3.

23 *Ibid.*, Interview Number 7, p. 2-3.

24 LRA, s. 138 (k) (ii)

25 One observer summarized this situation as follows: «The unions have no reverse gear. Their leaders are politicians who got there by saying, 'I can do better for you'. (*sic*) Business-managers need guts to ask for revised expectations. The segment that is working is reluctant to go with reduction. So, we end up with an absence of leadership». BROWN, *op. cit.*, 1984, Interview Number 10, p. 7.

26 See, for example, «Unions waiting for better times to war for wages», *Edmonton Journal*, April 6, 1985.

27 «Bill 110» or *Labour Relations Amendment Act*, 1983, S.A. 1983, ch. 82.

28 *View Construction Ltd.* unreported (A.L.R.B.), BIR 243, 08-02-82. It concerned s. 132 of the Act, in addition to ss. 54 and 56, dealing with registration certificates and the binding nature of collective agreements negotiated under them (at 4-6).

29 *Construction and General Workers' Union Local 92, Edmonton v. H.D.C. Construction Co. Ltd.* unreported (A.L.R.B.), File No. LR. 1655-H-14 or BIR 199, 27-01-81. Section 1(1) (L) of Alberta's *Labour Relations Act* defines «employer» as follows: «'employer' means a person who employs an employee».

30 *Operative Plasterers and Cement Masons Local 924 v. Stuart Olson Construction Ltd. and Stuart Olson Industrial Contractors Ltd.* unreported (A.L.R.B.), File Nos. L.R. 1431-T-1, 1431-S-1, 1431-S-2 or LRB 344, 01-06-83, at 13.

31 Edmonton No. 8303-19530 (Alta. Ct. of Queen's Bench), January 25, 1984.

32 *International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers & Helpers, Local Lodge 146, Calgary; United Association of Plumbers & Pipefitters, Local Union 496 v. Canyon Industries (Alta.) Ltd.; Canyon Engineering & Construction Ltd. and Hunter Hydrocarbon Ltd.* unreported (A.L.R.B.), File No. LR 1809-P-20 or BIR 279, 29-07-82.

33 In a subsequent case the Board raised «on its own motion» the issue of whether or not an allied firm was a spin-off under s. 133. It found that both firms should be treated as being one but reaffirmed the non retroactivity determination of *Canyon Industries*. (See *Braunfel Engineering & Construction Ltd. and Braunfel Industries Ltd.* (1983), 3 CLRBR (NS) 1.) An illustrative case, where the Board did not find three companies to be «associated or related activities or business...carried on under common control or direction» pursuant to s. 133, is *Fuller & Knowles Co. Ltd., Strathcona Mechanical Inc. and P.P.T. Mechanical Services Inc.* unreported (A.L.R.B.), File No.'s L.R. 174-S-12, L.R. 174-S-11, L.R. 174-P-23, 31-10-84.

34 BROWN, *op. cit.*, 1984, p. 60.

35 Sections 54 and 56 of the LRA concern the effect of registration certificates and collective agreements on contractors in the corresponding appropriate bargaining units of employers.

36 «On May 1, 1982, there were 805 nonunion contractors in Calgary and Edmonton. Historically, this number has doubled every 5 years. I am only speculating, but I feel that this number has doubled in the last year alone.» BROWN, *op. cit.*, 1984, Interview Number 1, p. 4, emphasis added.

37 *Ibid*, Interview Number 1, p. 2.

38 Al Olson, President, Stuart-Olson Construction Ltd., «The Decisive Move to Non-Union Construction», 15th CCA Annual Construction Labour Relations Conference, Calgary, Alberta, November 15-16, 1984, Apparently, some union members working for nonunion operations were threatened with the loss of their union pension fund contributions. The rapid nonunion conversion during 1982-84 also meant that several building trades pension plans became underfunded. BROWN, *op. cit.*, 1984, Interview Number 10, p. 4.

39 *Ibid*, Interview Number 4, p. 4.

40 *Ibid*, Interview Number 4, p. 2.

41 It must be noted, however, that there was reduced contractor interest in the unionized sector, as many contractors had found ways to compete.

42 This alternative would be termed the «Best Alternative To a Negotiated Agreement» by Roger FISHER and William URY, *Getting to Yes*, Toronto, Penguin Books, 1981, p. 104.

43 *Alberta Road Builders, et al. v. International Union of Operating Engineers, Local 955, Edmonton, Alta. and the Alberta Labour Relations Board*, Edmonton No. 8303-25975 (Alta. Ct. of Queen's Bench), January 12, 1985.

44 Article 18.03 stated that the agreement continued in force» [u]ntil the procedures of the Labour Relations Act have been exhausted». See Edmonton No. 8303-25975 at 3 and at 7, concerning paramountcy.

45 *International Union of Operating Engineers, Local 955 v. Alberta Roadbuilders Association and Alberta Labour Relations Board*, (1984) 53 Alberta Reports 355 (Alberta Court of Appeal). Leave to appeal to the Supreme Court of Canada was denied early in 1985 (*Alberta Weekly Law Digest*, January 11, 1985).

46 *Construction Labour Relations, an Alberta Association, etc. v. Labour Relations Board and United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 488*, 33 Alberta Law Reports (2d) 143 (August 8, 1984).

47 Specifically, Sections 137(3)(b) and 32 of the Act.

48 *Construction Labour Relations — An Alberta Association et al. v. Alberta Labour Relations Board et al.; United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local Union 496, Calgary v. Alberta Labour Relations Board et al.*, 34 Alta. L.R. (2d) 229 (October 24, 1984).

49 37 Alta. L.R. 1. Leave to appeal to the Supreme Court of Canada was denied during the spring of 1985. See *Alberta Weekly Law Digest*, April 26, 1985.

50 Mr. Justice Moir reportedly stated that, had CLR raised the same counter-arguments in the earlier case involving cement masons as in the later case involving plumbers and pipefitters, he would have been «hard pressed» to grant the stays in both cases, as he had done to remain consistent. See «Contractors play down wage ruling», *Edmonton Journal*, December 1, 1984.

51 BROWN, *op. cit.*, 1984, Interviews Number 10, (at. p. 5) and Number 11 (at. p. 4), which suggests that this was done «probably out of a sense of frustration».

52 *Labour Relations Act*, s. 136(1).

53 BROWN, *op. cit.*, Interview Number 12, p. 7.

54 «Plumbers end 3-months strike», *Edmonton Journal*, November 23, 1984.

55 The former wage of \$19.50 was to become \$18.25 as of September 1, 1985 and to increase to \$18.65 on March 1, 1986 and \$19.10 on March 1, 1987. A CLR spokesman claimed the thirteen-month agreement would not be followed in the other trades it represents. See «Union, builders accept rollback», *Edmonton Journal*, September 4, 1985.

56 «A pragmatic union», editorial in *The Edmonton Journal*, November 14, 1984.

57 The «enabling clause» permitted provisions of the agreement to be altered by mutual consent where «a particular Article or Articles...is or are found to work a hardship for a particular project or specific geographical area». It operated subject to mutual consent of the union, employer and association. In addition, there was a wage reopener clause 18 months after the date of signing, providing for arbitration, if agreement could not be reached. The agreement was in effect from October 1, 1984 until September 30, 1987. See Alberta Labour, *Alberta Construction Industry Union Wage & Benefit Report*, April, 1985, p. 8.1.

58 Project agreements had occurred previously under agreements covering other trade divisions for certain geographical regions, but they often were negotiated after the successful bid. See, for instance, *Canem Systems Ltd. and U.A. (Plumbers' Union), Local 496 (Calgary)* unreported arbitration award, December 20, 1983 (Fisher), at. pp. 11-17.

59 Alberta Labour, *Alberta Construction Industry Union Wage & Benefit Report*, April, 1985, pp. 6.1, 12.1, 12.3, 33.1, 38.1, and 40.1.

60 Alberta Labour, *Alberta Construction Industry Union Wage & Benefit Report*, April, 1985, pp. 10.1 and 36.1.

61 Alberta Labour, *Alberta Construction Industry Union Wage & Benefit Report*, April, 1985, pp. 41.1, 42.1, 43.1, and 44.1.

62 «Union bashing claimed after contract overturned», *Edmonton Journal*, July 11, 1985. The Board's decision was dated June 20, 1985.

63 Interview with George Akins, December 26, 1985.

64 The agreement with Associated Kellogg-Kilburn rolled back union wages by \$1.25 per hour for all 17 trades, but there were to be a \$0.50 per hour increases on March 1, 1985; March 1, 1986; and September 1, 1986. The project agreement was to cover some 1,700 unionized tradesmen over the project's three-year life. See «Wage rollback in Syncrude pact», *Edmonton Journal*, March 20, 1985. Earlier some of the benefits to be cut included travel time and over-time payments and overall cuts were «as high as 35% in some trades». See «Syncrude construction wages face 35-per-cent cut in deal», *Edmonton Journal*, March 12, 1985.

65 Interview with Bob Lyn, November 19, 1985.

66 *Local 720 of the International Association of Bridge, Structural and Ornamental Ironworkers and Empire Iron Works Ltd. and Emron Management Inc.*, unreported (A.L.R.B.), File Nos. LR. 1610-E-3 and L.R. 1610-E-4.

67 Contractors reportedly had reduced the previously prevailing contractual wage rate of \$17.50 per hour to between \$14.25 and \$15.00 per hour. «Sheet metal union votes strike; asks talks», *Edmonton Journal*, May 14, 1986.

68 The expired gross and base rates respectively were \$22.06 and \$18.74. The new rates respectively were \$14.486 and \$12.30, rising to \$16.07 and \$13.50 upon expiry.

69 The expired gross and base rates respectively were \$21.57 and \$18.70. The new rates respectively were \$16.01 and \$14.00, rising to \$19.76 and \$17.50 upon expiry.

70 Submission of CLR to CIACA, February 25, 1986.

71 «Don't blame Alberta labour laws — Getty» and «Good labour law is Getty's duty», *Edmonton Journal*, June 6, 1986.

72 BROWN, 1984, Interview Number 4, 7-8 and see Building & Construction Trades Department, AFL-CIO and National Construction Employers Council, «Market Recovery Program Handbook for Union Construction», February, 1984.

73 «I believe there is already a shift to nonunion firms. I gave the examples of Dow and Syncrude earlier. The shift is especially acute in private firms. The owners are now realizing that nonunion firms have the competence, the bonding capacity, and the financial backing to undertake their most demanding assignments». Brown, 1984, Interview Number 5,3.

74 Indeed, early in 1984, one observer noted the following (Brown, Interview Number 11, 6): «The contractors are just getting the bugs worked out of working nonunion. They are experiencing better productivity and less hassless (*sic*). The survivors are slipping into a new system and are liking it. It will be very tough for the unions to break back in, especially with the general contractors. The specialty contractors will be easier to change back, but the general contractors will be tough.»

75 The Alberta Construction Association predicted a growth of 4% in real terms and 8% in dollar volume to \$7.2 billion during 1986. «Calgary to lead in construction with Olympic building boom», *Edmonton Journal*, December 15, 1985. A limited amount of the anticipated growth possibly is due to decreased labour costs.

Les relations du travail dans l'industrie du bâtiment en Alberta pendant la dernière récession

Cet article décrit et analyse, en ce qui a trait aux relations professionnelles, la transformation rapide de l'industrie de la construction en Alberta dont 70 à 80 pour cent des chantiers étaient syndiqués et régis par des conventions collectives pendant la période 1975-1982, alors qu'il n'y en avait plus que 5 à 10 pour cent au début de 1984. Plusieurs facteurs importants ont concouru à ce phénomène dont la rapidité est apparemment sans parallèle en Amérique du Nord. Une des causes déterminante est attribuable à la nature générale de l'industrie du bâtiment. Il est possible qu'une fluctuation économique marquée et des vents contraires soient parmi les facteurs qui ont influencé les décisions de se lancer dans des entreprises planifiées d'avance. L'industrie du pétrole et du gaz naturel commande une bonne part de l'activité dans l'industrie de la construction tout comme l'activité économique en régions. Deux «méga-projets» furent ajournés en 1982 à cause du déclin, à l'époque du prix du pétrole, des taux d'intérêt élevés et de la politique pétrolière du gouvernement fédéral. L'annulation indéfinie de ceux-ci ainsi que d'autres entreprises déjà planifiées eurent pour conséquence une forte baisse d'activité dans l'industrie du bâtiment dont le volume s'établissait à onze milliards en 1982.

Héritage de l'ambiance optimiste de la période 1975-1982, en 1982, des ententes aux tables de négociation qui accordaient pour deux ans des hausses de quatre à cinq dollars aux travailleurs de l'industrie de la construction furent conclues tout juste avant l'éclatement du ballon de l'industrie plus tard durant la même année. Les entrepreneurs dont les chantiers étaient syndiqués et les syndicats eux-mêmes s'étaient ainsi indiscutablement placés en dehors du marché.

Peut-être cet état de choses est-il attribuable à la structure de négociation qui tend à perpétuer les rivalités de métier des deux côtés de la table des négociations. En tout cas, les tentatives visant à convaincre les syndicats de faire des concessions, alors que les conventions collectives étaient en vigueur, s'avérèrent-elles infructueuses à l'exception de l'Association des travailleurs du métal en feuilles qui se trouvait alors en tutelle. Il n'y eut pas de concessions pour nombre de raisons, en particulier le désir de ne pas créer de précédents désavantageux (c'est-à-dire en Ontario, aux États-Unis ou dans des industries connexes en Alberta même) et par suite également de l'apathie des membres des syndicats et de leurs dirigeants à cause de leur stratégie qui visait «à surmonter la crise».

Se trouvant placés devant un taux de chômage élevé dans l'industrie et par conséquent devant une concurrence acharnée de la part des entreprises non syndiquées, les entrepreneurs dont les chantiers étaient régis par des conventions collectives cherchèrent à trouver des moyens de faire face à la concurrence. Plusieurs d'entre eux restructurèrent leurs organisations, se limitant à être maître-d'oeuvre en faisant effectuer tout leur travail par des contrats de sous-traitance selon la formule de l'«atelier ouvert». Un lobby d'entrepreneurs cherchant à légitimer cette pratique a

conduit à une nouvelle législation à la fin de 1983; mais celle-ci n'a pas été proclamée et, plus tard, a été rappelée. Toutefois, une série de décisions de la Commission des relations du travail touchant ces entreprises restructurées a clarifié comment pareille restructuration peut se faire sans violer les dispositions de la loi. De plus, pendant la ronde de négociation en 1984, les entrepreneurs découvrirent un moyen légal de mettre fin aux conventions collectives; ils y recoururent avec succès et, subséquemment, mirent en vigueur des conditions de travail nouvelles. Une grève des plombiers à Calgary destinée à contrer ces tactiques fut en règle générale contournée par les entrepreneurs, ce qui donna lieu à plus d'accords dans des contrats individuels de construction dont les conditions étaient inférieures aux taux de salaires qui prévalaient antérieurement. Cette expérience semble avoir généré une répugnance générale parmi les autres syndicats de recourir à la grève.

Toutefois, une grève des travailleurs en fer structural, qui occupaient une position stratégique sur les chantiers, n'apporta apparemment que des replis peu importants en 1985.

La plupart des entrepreneurs, qui étaient liés par convention avec les syndicats, survécurent à la récession de 1982-1983. Le pendule du pouvoir de marchandage avait basculé, au moins temporairement du côté des entrepreneurs en Alberta. Le gouvernement provincial, pour divers motifs, répugnait à intervenir. L'impact de ces baisses fut différent d'un métier à l'autre, mais, d'une façon générale, les revenus de base diminuèrent. Plusieurs membres des syndicats des métiers de la construction restèrent sans travail et la majeure partie de ceux qui travaillaient n'étaient plus protégés par des conventions collectives. Les entrepreneurs généraux et, à un moindre degré, les entrepreneurs spécialisés avaient accepté l'idée d'un régime non syndiqué. Les firmes non syndiquées avaient acquis l'expérience et la compétence nécessaire à la réalisation de contrats de plus en plus gros et payants. Il reste à voir si la construction industrielle demeurera ou non le dernier bastion syndiqué de l'industrie. Plusieurs solutions peuvent émerger face au défi auquel les syndicats sont acculés, y compris les difficultés internes qu'il leur faut envisager. Le temps dira s'il y aura un ensemble de nouvelles mesures audacieuses, possiblement modelées d'après les programmes appliqués à la suite de la reprise récente de l'activité sur le marché du travail aux États-Unis ou des variantes de ceux qui ont été expérimentés antérieurement.